

1 PHILLIP A. TALBERT
Acting United States Attorney
2 HENRY Z. CARBAJAL III
Assistant United States Attorney
3 2500 Tulare Street, Suite 4401
4 Fresno, CA 93721
Telephone: (559) 497-4000
5 Facsimile: (559) 497-4099

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7 Attorneys for the
United States of America
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9 UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA
11

12 UNITED STATES OF AMERICA,
13 Plaintiff,

14 v.

15 NICHOLAS RIAN TO,
16 Defendant.
17

CASE NO. 1:12-CV-00516 DAD
[1:01-CR-05063 AWI]

GOVERNMENT'S THIRD MOTION FOR
AN EXTENSION OF TIME TO RESPOND
TO DEFENDANT'S PETITION FOR WRIT
OF ERROR *CORAM NOBIS*;
ORDER

Hon. Dale A. Drozd

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19 The United States, by and through its attorney, Assistant United States Attorney Henry Z.
20 Carbajal III, hereby requests a third, and final, extension of time to **May 25, 2016** to file its
21 response to defendant's petition for a writ of error *coram nobis*. Dkt. No. 1.

22 On January 25, 2016, the Court ordered the United States Attorney's Office to file a
23 response to the defendant's writ of error *coram nobis* petition by February 16, 2016. Dkt. No. 8.
24 The matter was then assigned to the undersigned attorney. The criminal case underlying the
25 petition dates back to 2001. On February 12, 2016, the Court granted an initial extension of time
26 of 60 days for the government to file its response to the defendant's *coram nobis* petition, resulting
27 in a due date of April 18, 2016. Because, in part, the undersigned was also drafting another brief
28

1 in the interim, due to the Ninth Circuit on April 20, 2016, the government requested a second
2 extension of time for 30 days to May 18, 2016.

3 In the interim 30 days, the government has obtained a copy of defendant Rianto's alien
4 file from immigration authorities, including copies of the decisions of the immigration courts
5 regarding Rianto's deportation proceedings. These documents also include several copies of
6 judgments of criminal convictions in state matters that may affect Rianto's ineffective assistance
7 of counsel claims in the instant case. However, the government was not able to confirm a witness
8 from ICE or Homeland Security to authenticate the documents in a declaration or at a hearing,
9 should the Court find one necessary, until the date of this motion. The government requests a final
10 7-day extension to be able to prepare a declaration authenticating this additional information and
11 complete its opposition. Barring exceptional or emergency circumstances, the government does
12 not anticipate any further extension requests for its opposition.

13 Dated: May 17, 2016

PHILLIP A. TALBERT
Acting United States Attorney


15 By: /s/ HENRY Z. CARBAJAL III
16 HENRY Z. CARBAJAL III
Assistant United States Attorney

17 **ORDER**

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19 GOOD CAUSE APPEARING, the United States' third motion for extension of time to
20 file a response to the defendant's petition for writ of error *coram nobis* is GRANTED. The United
21 States shall file and serve its responsive pleading on or before **May 25, 2016**.

22
23 IT IS SO ORDERED.

24 Dated: May 17, 2016


UNITED STATES DISTRICT JUDGE